

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

SHAUN WALTON,

Plaintiff,

v.

ADRIANNE GORDON, et al.,

Defendants.

CAUSE NO. 3:19-CV-1157-JD-MGG

OPINION AND ORDER

Officer Tatum previously filed a motion for summary judgment, arguing that Shaun Walton did not exhaust his administrative remedies prior to filing this lawsuit. ECF 100. On January 4, 2023, this court denied Officer Tatum's summary judgment motion, concluding he had not met his burden to show Walton did not exhaust his administrative remedies because "the undisputed facts" showed the grievance office made Walton's administrative remedies unavailable. ECF 107.

Officer Tatum now moves for a hearing pursuant to *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008), to resolve whether Walton was prevented from exhausting his administrative remedies prior to filing this lawsuit. ECF 108. However, *Pavey* hearings are intended to resolve disputed material facts. In its order denying Officer Tatum's summary judgment motion, the court did not find any disputed material facts, but rather concluded "the undisputed facts" showed Walton's administrative remedies were not available. Thus, there is no need for a *Pavey* hearing. To the extent Officer Tatum requests the court reconsider its order denying his summary judgment motion,

he has not provided any argument that warrants reconsideration. *See King v. Ford Motor Co.*, 872 F.3d 833, 838–39 (7th Cir. 2017) (arguments which “could have been submitted along with [the] response to the motion for summary judgment [are] not properly presented for the first time in a motion for reconsideration”); *Publishers Resource v. Walker–Davis Publications*, 762 F.2d 557, 561 (7th Cir. 1985) (holding that a motion for reconsideration cannot be used to introduce new evidence or arguments that could have been presented during the pendency of the previous motion).

Accordingly, Officer Tatum’s motion for a *Pavey* hearing (ECF 108) is DENIED.

SO ORDERED on January 12, 2023

/s/JON E. DEGUILIO
CHIEF JUDGE
UNITED STATES DISTRICT COURT